

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
ANN ARBOR DIVISION**

DENNIS M. CALMEYN,

Plaintiff,

v.

DIVERSIFIED CONSULTANTS,
INC.,

Defendant.

CIVIL COMPLAINT

CASE NO. 5:19-cv-10307

DEMAND FOR JURY TRIAL

COMPLAINT

NOW comes DENNIS M. CALMEYN (“Plaintiff”), by and through his attorneys, Sulaiman Law Group, Ltd. (“Sulaiman”), complaining as to the conduct of DIVERSIFIED CONSULTANTS, INC. (“Defendant”), as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages pursuant to the Fair Debt Collection Practices Act (“FDCPA”) under 15 U.S.C. §1692 *et seq.* and the Michigan Occupational Code (“MOC”) under M.C.L. §339.901 *et seq.*, for Defendant’s unlawful conduct.

JURISDICTION AND VENUE

2. This action arises under and is brought pursuant to the FDCPA. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C §1692, 28 U.S.C.

§§1331 and 1337, as the action arises under the laws of the United States. Supplemental jurisdiction exists for the state law claim pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 as Defendant conducts business in the Eastern District of Michigan and a substantial portion the events or omissions giving rise to the claims occurred within the Eastern District of Michigan.

PARTIES

4. Plaintiff is a natural person over 18 years-of-age residing in Livingston County, Michigan, which is located within the Eastern District of Michigan.

5. Plaintiff is a “person” as defined by 47 U.S.C. §153(39).

6. Defendant “is a full service collection agency” that provides third-party accounts receivables management to its clients.¹ Defendant is a corporation organized under the laws of the state of Florida with its principal place of business located at 10550 Deerwood Park Boulevard, Suite 309, Jacksonville, Florida.

7. Defendant is a “person” as defined by 47 U.S.C. §153(39).

8. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers at all times relevant to the instant action.

FACTS SUPPORTING CAUSES OF ACTION

¹ <https://www.dcicollect.com/services/>

9. Up until several months ago, Plaintiff had a telecommunications subscription with Comcast Corporation (“Comcast”).

10. Plaintiff was assessed with an early termination fee (“subject debt”) upon cancellation of his subscription to Comcast’s telecommunications services.

11. Shortly thereafter, Comcast waived the early termination fee, thus canceling any obligations Plaintiff had to Comcast.

12. On July 20, 2018, Eastern Account System of Connecticut, Inc. (“EASC”) mailed or caused to be mailed a collection letter to Plaintiff in an attempt to collect upon the subject debt.

13. Plaintiff informed EASC that he did not owe the subject debt and demanded that it provide validation for the subject debt.

14. Upon information and belief, EASC could not validate the subject debt and subsequently refused to collect it.

15. Thereafter, the subject debt was turned over to Defendant for collection.

16. While Defendant knew or should have known that Plaintiff did not owe the subject debt based on the events preceding its involvement, Defendant began contacting Plaintiff around late 2018 in an attempt to collect upon the subject debt.

17. Frustratingly, Plaintiff explained to Defendant that he does not owe the subject debt and demanded that it provide validation for the subject debt, just as Plaintiff did with EASC.

18. Defendant responded by providing Plaintiff with a faulty validation for the subject debt, which falsely suggests that Plaintiff still has an obligation to pay.

19. Defendant has even reported the subject debt to the credit bureaus, causing undue harm to Plaintiff's ability to obtain credit.

20. As a direct result of Defendant's actions, Plaintiff has been denied credit to finance the purchase of an automobile.

21. Plaintiff has been unfairly and unnecessarily harassed by Defendant's actions.

22. Frustrated over Defendant's conduct, Plaintiff spoke with Sulaiman regarding his rights, resulting in expenses.

COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

23. Plaintiff repeats and realleges paragraphs 1 through 23 as though full set forth herein.

24. Plaintiff is a "consumer" as defined by 15 U.S.C. §1692a(3) of the FDCPA.

25. Defendant is a "debt collector" as defined by §1692a(6) of the FDCPA, because it regularly use the mail and/or the telephone to collect, or attempt to collect, delinquent consumer accounts.

26. Defendant is engaged in the business of collecting or attempting to collect, directly or indirectly, defaulted debts owed or due or asserted to be owed or due to

others. Defendant identifies itself as a debt collector and has been a member of the Association of Credit and Collection Professionals (“ACA”) since 1994.²

27. The subject debt is a “debt” as defined by FDCPA §1692a(5) as it arises out of a transaction due or asserted to be due to another for personal, family, or household purposes.

a. Violations of FDCPA § 1692e

28. The FDCPA, pursuant to 15 U.S.C. §1692e, prohibits a debt collector from using “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

29. In addition, this section enumerates specific violations, such as:

“Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.” 15 U.S.C. §1692e(8).

“The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.” 15 U.S.C. §1692e(10).

30. Defendant violated §1692e, e(8) and e(10) when it used deceptive means to collect and/or attempt to collect the subject debt. On more than one occasion, Defendant willfully contacted an innocent consumer seeking to collect upon the subject debt, and was even notified by Plaintiff that he did not owe the subject debt.

² <http://www.acainternational.org/search#memberdirectory>

Nevertheless, Defendant continued its debt collection campaign and even reported the subject debt to the credit bureaus in a deceptive attempt to force Plaintiff to ultimately make a payment, even though the debt is not owed. Any reasonable fact finder will conclude that Defendant's actions were false, deceptive and misleading, as they were designed to confuse Plaintiff with the goal of impermissibly extracting payment from him.

b. Violations of FDCPA § 1692f

31.The FDCPA, pursuant to 15 U.S.C. §1692f, prohibits a debt collector from using “unfair or unconscionable means to collect or attempt to collect any debt.”

32.Defendant violated §1692f when it unfairly and unconscionably attempted to collect on a debt by contacting Plaintiff to collect upon a debt he does not owe. Attempting to coerce Plaintiff into payment after becoming privy to the fact that it is contacting someone that does not owe the subject debt is unfair and unconscionable behavior. These means employed by Defendant only served to worry and confuse Plaintiff.

33.As pled in paragraphs 19 through 22, Plaintiff has been harmed and suffered damages as a result of Defendant's illegal actions.

WHEREFORE, Plaintiff, DENNIS M. CALMEYN, respectfully requests that this Honorable Court enter judgment in his favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned bodies of law;

- b. Awarding Plaintiff statutory damages of \$1,000.00 as provided under 15 U.S.C. §1692k(a)(2)(A);
- c. Awarding Plaintiff actual damages, in an amount to be determined at trial, as provided under 15 U.S.C. §1692k(a)(1);
- d. Awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692k(a)(3); and
- e. Awarding any other relief as this Honorable Court deems just and appropriate.

COUNT II – VIOLATIONS OF THE MICHIGAN OCCUPATIONAL CODE

34.Plaintiff restates and realleges paragraphs 1 through 33 as though fully set forth herein.

35.Plaintiff is a “consumer” or “debtor” as defined by M.C.L. § 339.901(f).

36.Defendant is a “collection agency” as defined by M.C.L. § 339.901(b) as it is a person that is directly engaged in collecting or attempting to collect a claim owed or due or asserted to be owed or due another.

37.The subject debt is a “[c]laim” or “debt” as defined by M.C.L. § 339.901(a) as it is an obligation or alleged obligation for the payment of money or thing of value arising out of an agreement or contract for a purchase made primarily for personal, family, or household purposes.

a. Violations of M.C.L. § 339.915(f)(ii)

38.The MOC, pursuant to M.C.L. § 339.915(f)(ii) prohibits a collection agency from “[m]isrepresenting in a communication with a debtor . . . [t]he legal rights of the creditor or debtor.”

39.Defendant violated M.C.L. § 339.915(f)(ii) by repeatedly attempting to collect from Plaintiff a debt that is not owed. Through its continuous contacts and its reporting of the subject debt to the credit bureaus, Defendant deceptively represented that it had the legal ability to collect from Plaintiff a debt that is not owed by him.

WHEREFORE, Plaintiff, DENNIS M. CALMEYN, respectfully requests that this Honorable Court enter judgment in his favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations;
- b. Entitling Plaintiff to injunctive relief, pursuant to M.C.L. § 339.916(1).
- c. Awarding Plaintiff actual damages, including treble damages, pursuant to M.C.L. § 339.916(2).
- d. Awarding statutory damages of at least \$50.00, including treble damages, pursuant to M.C.L. § 339.916(2).
- e. Awarding Plaintiff costs and reasonable attorney fees, pursuant to M.C.L. § 339.916(2).
- f. Awarding any other relief as this Honorable Court deems just and appropriate.

Dated: January 31, 2019

Respectfully submitted,

s/ Ahmad T. Sulaiman

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